



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 485

IN THE MATTER OF SUZANNE M. BUMP

DISPOSITION AGREEMENT

This Disposition Agreement ("Agreement") is entered into between the State Ethics Commission ("Commission") and Suzanne M. Bump ("Rep. Bump") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court pursuant to G.L. c. 268B, §4(j).

On June 22, 1993, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into allegations that Rep. Bump had violated the conflict of interest law, G.L. c. 268A. The Commission has concluded its inquiry, and on January 27, 1994, voted to find reasonable cause to believe that Rep. Bump violated G.L. c. 268A, §3.

The Commission and Rep. Bump now agree to the following facts and conclusions of law:

14. Rep. Bump served in the legislature for four terms from January 1985 to January 1993.

15. During her eight years in the House of Representatives, Rep. Bump served on the Joint Committee on Commerce and Labor where she served as that committee's chairperson during the 1991-92 legislative session. Each year, a number of bills affecting insurance companies (as they are Massachusetts employers) are assigned to the Commerce and Labor Committee. Rep. Bump has presided over hearings on these bills and participated in votes on whether the bills should be reported out of committee. In addition, Rep. Bump has voted on bills of interest to the insurance industry when they reach the House floor.

16. While chairperson of the Commerce & Labor Committee, Rep. Bump also sponsored or co-sponsored four bills of interest to the insurance industry.

17. In 1992, F. William Sawyer ("Sawyer") was the senior John Hancock Mutual Life Insurance Company, Inc. ("Hancock") lobbyist responsible for Massachusetts legislation. At all relevant times, Sawyer was a registered legislative agent (for Hancock) in Massachusetts. Hancock, a Massachusetts corporation, is the nation's sixth largest life insurer doing business in all 50 states. It offers an array of life, health and investment products. As a Massachusetts domiciled life insurer, Hancock is more subject to Massachusetts laws and regulations than to those of any other state.

18. In 1992, Rep. Bump knew that Sawyer was a Massachusetts registered lobbyist for Hancock.

19. Lobbyists are employed to promote, oppose, or influence legislation.

20. One way in which some lobbyists further their legislative goals is to develop or maintain goodwill and personal relationships with legislators to ensure effective access to them. Some lobbyists entertain legislators through dinners, drinks and event tickets as a means to develop the desired goodwill and personal relationships.

21. On March 8, 1992, Sawyer hosted Rep. Bump and her spouse at a dinner at the Four Seasons Hotel in

Boston. The Bumps' share of the dinner expense was \$136.32. Prior to the dinner, Sawyer provided Bump and her spouse with tickets to the David Copperfield Magic Show at the Wang Center. The value of these tickets was \$59.50. Thus, the total value of the entertainment Rep. Bump and her spouse received was \$195.82.

22. Section 3(b) of G.L. c. 268A prohibits a state employee from accepting anything of substantial value for or because of any official acts or acts within her official responsibility performed or to be performed by her.

23. Massachusetts legislators are state employees.

24. Anything worth \$50 or more is of substantial value.^{1/}

25. By accepting a total of \$195.82 in food and theater ticket entertainment from Sawyer, while she was in a position to take official action which could benefit that lobbyist, Rep. Bump accepted items of substantial value for or because of official acts or acts within her official responsibility performed or to be performed by her. In doing so, Rep. Bump violated §3.^{2/}

26. The Commission is aware of no evidence that the above referenced gratuities were provided to Rep. Bump with the intent to influence any specific official act by her as a legislator or any particular act within her official responsibility. The Commission is also aware of no evidence that Rep. Bump took any official action concerning any proposed legislation which would affect Hancock in return for the gratuities. However, even though the gratuities were only intended to foster official goodwill and access, they were still impermissible.^{3/}

27. Rep. Bump has fully cooperated with the Commission throughout this investigation.

In view of the foregoing violations of G.L. c. 268A by Rep. Bump, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Rep. Bump:

(1) that Rep. Bump pay to the Commission the sum of six hundred dollars (\$600.00)^{4/} for violating G.L. c. 268A, §3(b); and

(2) that Rep. Bump waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this agreement and in any related administrative or judicial proceedings to which the Commission is or may be a party.

Date: May 12, 1994

^{1/} See *Commonwealth v. Famigletti*, 4 Mass. App. Ct. 584, 587 (1976); *EC-COI-93-14*.

^{2/} For §3 purposes, it is unnecessary to prove that the gratuities given were generated by some specific identifiable act performed or to be performed. In prohibiting private parties from giving free tickets worth \$50 or more to public employees who regulate them, the Commission explained in *Advisory No. 8* (issued May 14, 1985) that:

Even in the absence of any specifically identifiable matter that was, is or soon will be pending before the official, §3 may apply. Thus, where there is no prior social or business relationship between the giver and the recipient, and the recipient is a public official who is in a position to use [her] authority in a manner which could affect the giver, an inference can be drawn that the giver was seeking the goodwill of the official because of a perception by the giver that the public official's influence could benefit the giver. In such a case, the gratuity is given for her yet unidentifiable "acts to be performed."

Specifically, §3 applies to generalized goodwill-engendering entertainment of legislators by private parties, even where no specific legislation is discussed. *In re Flaherty*, 1991 SEC 498 (issued December 10, 1990) (majority leader violates §3 by accepting six Celtic tickets from billboard company's lobbyists); *In re Massachusetts Candy and Tobacco Distributors, Inc.*, 1992 SEC 609 (company representing distributors violates §3 by providing a free day's outing [a barbecue lunch, golf or tennis, a cocktail hour and a clam bake dinner] worth over \$100 per person to over 50 legislators, their staffers and family members, with the intent of enhancing the distributors' image with the legislature and where the legislators were in a position to benefit the distributors). Section 3 also applies to meals, including those occasions motivated by business reasons, for example, the so-called "business lunch". *In re U.S. Trust*, 1988 SEC 356. On the present facts, §3 applies to the entertainment of Rep. Bump where the intent was generally to create goodwill and the opportunity for access, even though specific legislation was not discussed.

Rep. Bump has argued that §3 does not apply to meals given to legislators. There is nothing in the legislative history regarding §3 or the language of §3 to support that argument. In the Commission's view, §3 applies to any form of entertainment, including meals, given

to any public official.

^{3/} As discussed above in footnote 2, §3 of G.L. c. 268A is violated even where there is no evidence of an understanding that the gratuity is being given in exchange for a specific act performed or to be performed. Indeed, any such *quid pro quo* understanding would raise extremely serious concerns under the bribery section of the conflict of interest law, G.L. c. 268A, §2. Section 2 is not applicable in this case, as there was no such *quid pro quo* agreement between Sawyer and Rep. Bump.

^{4/} This amount is approximately three times the value of the \$195 in prohibited gratuities received by Rep. Bump in violation of c. 268A, §3. It represents a disgorgement of the improperly received gratuity plus a civil sanction.